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Annette W. Jarvis (Utah Bar No. 1649)
 Steven C. Strong (Utah Bar No. 6340)
 RAY QUINNEY & NEBEKER P.C.
 36 South State Street, Suite 1400
 P.O. Box 45385
 Salt Lake City, Utah 84145-0385
 Telephone: (801) 532-1500
 Facsimile: (801) 532-7543
 Email: ajarvis@rqn.com

Lenard E. Schwartz (Nevada Bar No. 0399)
 Jeanette E. McPherson (Nevada Bar No. 5423)
 SCHWARTZER & MCPHERSON LAW FIRM
 2850 South Jones Boulevard, Suite 1
 Las Vegas, Nevada 89146-5308
 Telephone: (702) 228-7590
 Facsimile: (702) 892-0122
 Email: bkfilings@s-mlaw.com

Attorneys for Debtors and Debtors-in-Possession

Marc A. Levinson (California Bar No. 57613)
 Jeffery D. Hermann (California Bar No. 90445)
 ORRICK, HERRINGTON & SUTCLIFFE LLP
 400 Capitol Mall, Suite 3000
 Sacramento, CA 95814-4497
 Telephone: (916) 447-9200
 Facsimile: (916) 329-4900
 Email: malevinson@orrick.com;
jhermann@orrick.com

Bob L. Olson (Nevada Bar No. 3783)
 Anne M. Loraditch (Nevada Bar No. 8164)
 BECKLEY SINGLETON, CHTD.
 530 Las Vegas Boulevard South
 Las Vegas, NV 89101
 Telephone: (702) 385-3373
 Facsimile: (702) 385-5024
 Email: bolson@beckleylaw.com;
aloraditch@beckleylaw.com

*Attorneys for the Official Committee of Equity Security
 Holders of USA Capital Diversified Trust Deed Fund, LLC*

UNITED STATES BANKRUPTCY COURT

DISTRICT OF NEVADA

In re:
 USA COMMERCIAL MORTGAGE COMPANY,
 Debtor.

In re:
 USA CAPITAL REALTY ADVISORS, LLC,
 Debtor.

In re:
 USA CAPITAL DIVERSIFIED TRUST DEED
 FUND, LLC,
 Debtor.

In re:
 USA CAPITAL FIRST TRUST DEED FUND, LLC,
 Debtor.

In re:
 USA SECURITIES, LLC,
 Debtor.

Case No. BK-S-06-10725 LBR
 Case No. BK-S-06-10726 LBR
 Case No. BK-S-06-10727 LBR
 Case No. BK-S-06-10728 LBR
 Case No. BK-S-06-10729 LBR

Chapter 11

Jointly Administered Under
 Case No. BK-S-06-10725-LBR

**JOINT EX PARTE APPLICATION FOR
 ORDER REQUIRING PRODUCTION
 OF DOCUMENTS PURSUANT TO
 FEDERAL RULE OF BANKRUPTCY
 PROCEDURE 2004**

[No hearing required]

Affects:

- ☒ All Debtors
- ☐ USA Commercial Mortgage Company
- ☐ USA Securities, LLC
- ☐ USA Capital Realty Advisors, LLC
- ☐ USA Capital Diversified Trust Deed Fund, LLC
- ☐ USA First Trust Deed Fund, LLC

Pursuant to Rule 2004 of the Federal Rules of Bankruptcy Procedure (hereinafter, the “Bankruptcy Rules”), USA Capital Diversified Trust Deed Fund, LLC (hereinafter, “Diversified”), and the Official Committee of Equity Security Holders of USA Capital Diversified Trust Deed Fund, LLC (hereafter, the “Diversified Committee”), by and through their respective counsel noted above,¹ hereby apply to this Court for an order directing the Custodian of Documents for BySynergy, LLC, an Arizona limited liability company, to (i) produce for inspection and copying all documents described on Exhibit A, pursuant to Bankruptcy Rules 2004, 7030, 7034, 9016, and Rules 34 and 45 of the Federal Rules of Civil Procedure, at or prior to 10:00 o’clock a.m. Mountain Standard Time on February 9, 2007, at The Residence Inn By Marriott, 3440 North Country Club Drive, Flagstaff, Arizona 86004; or, in the alternative, (ii) deliver copies of all documents described on Exhibit A, at or prior to 9:00 o’clock a.m. prevailing Pacific Time on February 9, 2007, to Jeffery D. Hermann, Esq., at the Law Offices of Orrick, Herrington & Sutcliffe P.C., 777 South Figueroa Street, Suite 3200, Los Angeles, CA 90017-5855, and to Anne M. Loraditch, Esq., at the Law Offices of Beckley Singleton, Chtd., 530 Las Vegas Boulevard South, Las Vegas, Nevada 89101. This Application is explained in the following Memorandum.

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¹ Diversified and the Diversified Committee make this Application jointly because counsel for the Diversified Committee will become counsel to the reorganized Diversified entity subsequent to the Effective Date under the Debtors’ Third Amended Chapter 11 Plan, which was confirmed by the Court pursuant to its order entered January 8, 2007.

1 **MEMORANDUM**

2 Diversified and the Diversified Committee are seeking information from BySynergy,
3 LLC, an Arizona limited liability company, concerning the obligation owed to the Debtors by
4 BySynergy, LLC, collateral securing that obligation, the status of development of the collateral,
5 and other liens on the collateral. Diversified and the Diversified Committee seek this
6 information to assist in the collection of the assets and investigation of the liabilities of
7 Diversified.

8 The requested discovery from BySynergy, LLC is well within the scope of the
9 examination permitted pursuant to Bankruptcy Rule 2004, which includes:

10 [A]cts, conduct, or property or . . . the liabilities and financial condition of
11 the debtor, or . . . any matter which may affect the administration of the
12 debtor's estate, or to the debtor's right to a discharge. In a . . .
13 reorganization case under chapter 11 of the Code, . . . the examination
14 may also relate to the operation of any business and the desirability of its
15 continuance, the source of any money or property acquired or to be
16 acquired by the debtor for purposes of consummating a plan and the
17 consideration given or offered therefore, and any other matter relevant to
18 the case or to the formulation of a plan.

19 Fed.R.Bankr.P. 2004(b).

20 Bankruptcy Rule 2004(a) provides that "[o]n motion of any party in interest, the court
21 may order the examination of any entity." Rule 2004 of the Local Rules of Bankruptcy
22 Procedure (hereinafter, the "Local Rules") provides, in pertinent part:

23 (b) Order for examination. Orders for examination may be signed by
24 the clerk if the date set for examination is more than ten (10) business days
25 from the date such motion is filed....

26 LR 2004(b).

27 As required by the Local Rules, the date for the proposed production is more than ten
28 (10) business days from the date of this Motion.

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CONCLUSION

Accordingly, Diversified and the Diversified Committee respectfully request that the Clerk of the Court docket the form of Order submitted herewith.

Respectfully submitted this 18th day of January 2007.

BECKLEY SINGLETON, CHTD.

RAY, QUINNEY & NEBEKER, P.C.

/s/ Anne M. Loraditch

/s/ Steven C. Strong

Bob L. Olson (Nevada Bar No. 3783)
Anne M. Loraditch (Nevada Bar No. 8164)
530 Las Vegas Boulevard South
Las Vegas, NV 89101

Annette W. Jarvis (Utah Bar No. 1649)
Steven C. Strong (Utah Bar No. 6340)
RAY QUINNEY & NEBEKER P.C.
36 South State Street, Suite 1400
P.O. Box 45385
Salt Lake City, Utah 84145-0385

and

and

Marc A. Levinson (California Bar No. 57613)
Jeffery D. Hermann (California Bar No. 90445)
ORRICK, HERRINGTON & SUTCLIFFE LLP
400 Capitol Mall, Suite 3000
Sacramento, CA 95814-4497

Lenard E. Schwartzer (Nevada Bar No. 0399)
Jeanette E. McPherson (Nevada Bar No. 5423)
SCHWARTZER & MCPHERSON LAW FIRM
2850 South Jones Boulevard, Suite 1
Las Vegas, Nevada 89146-5308

*Attorneys for the Official Committee of Equity
Security Holders of USA Capital Diversified
Trust Deed Fund, LLC*

Attorneys for Debtors and Debtors-in-Possession

EXHIBIT A

The following definitions shall subscribe to the documents requested:

“Document,” shall mean writings and any other similar materials in your custody, possession, control, whether printed, handwritten, recorded, on disk or other computer medium, or photocopied or otherwise reproduced, and whether claimed to be exempt from production pursuant to a properly asserted privilege or for any other reason, with this definition including, for illustrative purposes and without limitation, all of the following: letters, reports, agreements, communications, notes, correspondence, telegrams, memoranda, computer data and/or messages such as e-mails, summaries or records of conversations or meetings of any kind, diaries, forecasts, photographs, tape recordings, reports and/or summaries of investigations, opinions and/or reports, appraisals and/or other analyses of any kind, notations on any documents (as heretofore described), and all drafts (and revisions) of every such document.

As used herein, the term “communication” means any transmission or exchange of information, whether orally, in writing, electronically, or any other means or mode of transmission or exchange of information.

As used herein, the term “person” means any natural person, corporation, partnership, joint venture, or any other entity or form of organization or association.

As used herein, the term “you” and “your” refers to BySynergy, LLC, its agents, officers, directors, employees, attorneys, affiliates, corporations, entities, representatives, or any other persons acting or purporting to act on your behalf.

As used herein, the phrase “refer or relate” or “referring to or relating to” means constituting, comprising, containing, alluding to, responding to, commenting upon, discussing, showing, disclosing, explaining, analyzing, construing, evidencing, setting forth, summarizing, or characterizing, either directly or indirectly, in whole or in part.

The singular form of a word shall be interpreted to include the plural, the masculine gender shall be deemed to include the feminine, and vice versa. If you should have any questions regarding the production demanded hereunder, your counsel is invited to contact the undersigned in advance of the examination date.

1 **YOU ARE FURTHER COMMANDED** to produce at the above-stated time and place
2 the Documents set forth below:

3 1. Any and all documents referring to or relating to the Promissory Note, dated
4 February 3, 2006, in the original principal amount of \$4,434,446.00, made by BySynergy, LLC,
5 in favor of USA Capital Diversified Trust Deed Fund, LLC (the "Note").

6 2. Any and all documents referring to or relating to the Trust Deed executed by
7 BySynergy, LLC, as security for the Note (the "Trust Deed").

8 3. Any and all documents referring to or relating to the status, development, or
9 construction of the real property described in the Trust Deed (the "Project").

10 4. Any and all documents referring to or relating to lot sales, commitments,
11 marketing plans or any transfer of any land within the Project; including, but not limited to, any
12 and all documents referring to or relating to deposits, escrows, payments, commission
13 arrangements, sales agents, brokers, and title companies.

14 5. Any and all documents relating to or referring to any liens on the Project.

15 6. Any and all documents relating to or referring to any loans relating to the Project,
16 including but not limited to any loan agreements and/or trust deeds involving Marshall & Illsley
17 Bank.
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